

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

United States of America,

Plaintiff,

v.

Civil No. 99-272-PB

Kimberly Dwinell,

Defendant.

CONSENT ORDER OF PAYMENT

Plaintiff, the United States of America, having obtained Judgment in the captioned action, and the defendant, having consented to the making and entry of this Consent Order of Payment, hereby agree as follows:

1. This Court has jurisdiction over the subject matter of this litigation and over all parties thereto.

2. Defendant hereby agrees to repay the balance of the Judgment in the sum of \$13,902.36 (which sum includes principal of \$13,446.30, interest of \$406.06, computed through April 2, 2010, and costs of \$50.00) plus interest at the legal rate of 5.224% from April 2, 2010, until paid in full.

3. Plaintiff's consent to the entry of this Order of Payment is based upon certain financial information which defendant has provided to plaintiff and the defendant's express representation to plaintiff that she is unable to presently pay the amount of indebtedness in full. The plaintiff's consent to the entry of this Order of Payment also is based upon the further representation of the defendant that she will comply with the Order of Payment entered in this case which provides terms and conditions for the defendant's payment of the Judgment, together

with accrued interest, in regular monthly installment payments, as follows:

(a) Beginning on or before the 16th day of April, 2010, the defendant shall tender to the United States a check or money order, payable to the U.S. Department of Justice, in the amount of \$200.00 and shall tender a like sum on or before the 16th day of each month thereafter until the entire amount of the Judgment, together with accrued interest and costs, is paid in full. Defendant will complete a financial statement on or about March 1 of each year and understands that the payment amount may be increased.

(b) Defendant shall mail each monthly installment payment to: United States Department of Justice, PO Box 70932, Charlotte, NC 28272. The payment shall contain the USAO No. 1999B37845 in the lower left-hand corner of the check.

(c) Each payment made by defendant shall be applied in accordance with the U.S. Rule, i.e., first to the payment of costs, second to postjudgment interest (as provided by 28 U.S.C. § 1961) accrued to the date of the receipt of the payment, and the balance, if any, to the principal.

(d) Defendant shall keep the United States currently informed, in writing, of any material change in her financial situation or ability to pay, and of any change in her employment, place of residence, or telephone number. Defendant shall provide such information to the United States Attorney at 53 Pleasant Street, 4th Floor, Concord, NH 03301.

(e) Defendant shall provide the United States with current, accurate evidence of her assets, income and expenditures (including, but not limited to, her Federal income tax returns) within fifteen (15) days of a request for such evidence by the United States Attorney.

(f) Defendant agrees to allow the U.S. Department of Justice to submit this debt to Treasury for inclusion in the Treasury Offset Program. Under this program, any federal payment the defendant would normally receive may be offset and applied to this debt. Payments shall be credited in accordance with the U.S. Rule.

4. An Abstract of Judgment shall be recorded among the records of the Registry of Deeds in the county of residence of the defendant, and all other jurisdictions where it is determined by the United States that the defendant owns real or personal property. Notwithstanding the periodic payment schedule specified in paragraph 3(a), the lien secured by the Abstract of Judgment will not be released in anticipation of a sale or transfer of defendant's real property until the United States receives full payment of the balance of the Judgment or such other lump sum as the United States may agree.

5. Defendant shall apply all monies received from income tax refunds, lottery winnings, judgments, and/or any other anticipated or unexpected financial gains to the outstanding court-ordered financial obligation. Such payments shall be made in accordance with paragraph 3(b) above.

6. Default under the terms of the Consent Order of Payment will entitle the United States to execute on the Judgment without notice to the defendant. The parties agree that the defendant shall be in default under the terms of the Order of Payment if any payment is not received in the United States Attorney's Office by the 5th calendar day after the payment due date as specified in paragraph 3(a) above.

7. Defendant acknowledges that the debt which is the subject of this Order of Payment originated from a debt for an educational loan which remains subject to the exception from discharge provisions of 11 U.S.C. § 523.

8. The defendant has the right of prepayment of this debt without penalty.

9. The parties further agree that any Consent Order of Payment which may be entered by the Court pursuant hereto may thereafter be modified and amended upon stipulation of the parties; or, should the parties fail to agree upon the terms of a new stipulated Order of Payment, the Court may, after

examination of the defendant, enter a supplemental Order of Payment.

KIMBERLY DWINELL
Pro Se Defendant

JOHN P. KACAVAS
United States Attorney

By: /s/ Kimberly Dwinell
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By: /s/ Michael T. McCormack
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DATED:

DATED: April 20, 2010

APPROVED THIS 21st DAY OF April, 2010.

/s/ Paul Barbadoro
U.S. District Court Judge

cc: Michael McCormack, Esq.
Kimberly Dwinell, Pro se